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Nuclear Test Ban

Challenge inspections: introductory observations and issues for consideration in WG 1

Working paper by a Friend of the Chair

1. One approach to challenge inspections could proceed from the fact that such inspections form a part of the overall system for monitoring compliance with the treaty which is designed to provide grounds for a definitive conclusion on whether its terms are being respected or whether a breach has occurred in any place in which the treaty applies. Consequently, procedures and methods for the conduct of inspections should be coordinated with the systems of seismic and other forms of monitoring that provide basic data for use both in assessing the need for an inspection and for its conduct.

2. The questions which must be examined in connection with on-site inspections are undoubtedly multifaceted in nature. In addition to their political aspects, technical, organizational, economic, legal and other sides of the problem are involved. The possibility of identifying a suspicious event such as a nuclear explosion by means of an inspection is based on the existence, for a certain period of time after the explosion, of a set of secondary indications in a specific area close to the site. The range of these indications is dependent on where and in what medium the explosion was conducted, its yield, the conditions in which it was carried out and other parameters. Hence the need for us to examine various procedures for inspections, the technical equipment required, their duration and their outcome. We consider that the task of conducting a thorough investigation and drawing up recommendations relating to a series of elements, primarily of a technical nature, would be best entrusted to experts, whose work would be carried out in May this year jointly with their consideration of non-seismic methods of monitoring. However, we must already consider a number of political and legal questions of principle which, when answered, will help us to define the task of the experts more precisely. The actual process will obviously be iterative in nature.

Of course, certain legal questions fall within a sphere of interests that are shared with Working Group 2, and in our view should be coordinated with that Group.

3. Against this background, the following is a list of questions which have already been addressed in part in the FOC document of 25 February 1994.

(a) What can serve as a basis for the making of a request for a challenge inspection and the taking of a decision concerning such an inspection?

(b) What initial data from the monitoring system are essential in order to identify the area and content of the inspection, and how precise should they be?

(c) What methods and technical procedures may be regarded as acceptable and admissible, and on what scale?

(d) What are the admissible dimensions of the area in which the inspection is to be held, and the time frame (schedule) between the moment when the request is made and the completion of the inspection?

(e) What should be the outcome of the work of the group of inspectors? Who, and in what manner, will process and interpret the results, draw a conclusion and take decisions on whether a violation has occurred?

(f) Who will constitute the group of inspectors, determine its size and provide it with equipment, materials and means of transport? What may be the maximum size of the group?

(g) How will access by the inspectors, the delivery of equipment and materials and their transport in the inspection area be ensured and organized?

(h) How will on-site inspections be financed? What is an acceptable scale of financing and its share in total expenditure on verification of the treaty?

(i) What rights, immunities and privileges should an inspector have?

(j) What rights and obligations should the inspected party have?

(k) Who will request the challenge inspection, and in what manner? Who will evaluate its well-foundedness and take a decision on the matter?

(l) What are the rights of the State at whose request the inspection is carried out, inter alia concerning the dispatch of its own observers?

(m) Is there a possibility that the right to request a challenge inspection and to conduct inspections may be misused? What is the nature of responsibility in such cases?

(n) How frequent and widespread is resort to the challenge inspection procedure expected to be?

(o) What will be the legal consequences of a treaty violation identified during an inspection, and what practical form will they take?

(p) What proportion of these questions should be reflected in the treaty and any protocol, and in what manner?

Naturally, the proposed list does not restrict the rights of the parties to address any other questions connected with challenge inspections.

On the basis of the views expressed during discussion of these questions, the ground could be prepared for effective subsequent work by the experts, and the drafting of the provisions of the treaty and protocol could be expedited.